

Note: Question 1 is compulsory. Attempt any five from the rest.

Question 1

(A) 1 Mark each

- (a) Agency by actual authority: A contract of agency can be express or implied. Whether it is express or implied, it can be by words spoken or written. While the express contract is often expressed in clear terms, implied contracts are created by circumstances.
- (b) Agency by ratification: Agency is also created by subsequent ratification or approach. The subsequent ratification becomes necessary because the agent acts without the knowledge or the approval of the principal.
- (c) Agency by ostensible authority: Where the authority of the principal is inferred by the conduct of the principal, there the agency through ostensible authority is born. Here the agent's authority is ostensible and the principal is bound by the act of the agent. Ostensible authority happens on account of estoppel and holding out.
- (d) Agency by necessity: Sometimes circumstances would compel and a relation of agency would fall in place. This is often out of necessity.
- (e) Actual authority and apparent authority: Actual authority to act as agent stems from a consent. The consent to act may be oral or in writing. Some time the authority can also be 'implied authority'. The implied authority is incidental or usual or customary. It would depend on the circumstance of the case.

(B)

'Holder': Holder of <u>negotiable instrument</u> means <u>as regards all parties prior to himself, a holder of an instrument for which value has at any time been given.</u>	1
'Holder in due course': (i) In the case of an instrument payable to bearer means any person who, for consideration became its possessor before the amount of an instrument payable. (ii) In the case of an instrument payable to order, ' <u>holder in due course</u> ' means <u>any person who became the payee or endorsee of the instrument before the amount mentioned in it became payable.</u> (iii) He had come to <u>possess the instrument without having sufficient cause to believe that any defect existed in the title of transferor</u> from whom he <u>derived his title.</u>	2
The problem is based upon the privileges of a ' <u>holder in due course</u> '. <u>Section 42</u> of the Negotiable Instrument Act, 1881, states that <u>an acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not</u> , by reason that such name is fictitious, <u>relieved from liability to any holder in due cause claiming under an endorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.</u> In this problem, <u>P is not a fictitious payee and D, the drawer can recover the amount of the cheque from A's bankers [North and South Wales Bank B. Macketh (1908) A.C. 137; Town and Country Advance Co. B, Provincial Bank (1917) 2 Ir. R.421].</u>	2

(C)

1) The <u>Annual General Meeting or Extra-ordinary General Meeting</u> can be <u>called only with authority of Board of Directors</u> i.e. <u>by passing necessary resolution</u> in the Board Meeting or by Circular resolution.	1
2) An Annual General Meeting or Extra-ordinary General Meeting <u>cannot be called by an individual director or some of the directors or by secretary.</u>	1
3) Now, in the instant case, Mr. Pati, <u>Secretary of Town Handlooms Ltd., called an extraordinary general meeting on requisition of some members.</u> He <u>issued notice of the meeting without the authority of the Board of Directors.</u>	1
4) The <u>Secretary of the company does not have the power to call the meeting by himself</u> by issuing notices. <u>Unless the Secretary is specifically authorized</u> either by the board of directors or by the articles, any meeting called by him and the <u>business done there at it would be null and void (Al Amin Seatrans Ltd. Vs. Owners and Party Interested in Vessel M V "Loyal Bird").</u>	1

5) However, the <u>notice of the meeting may be ratified by the Board of Directors of the company before the meeting is held</u> to make it good (Hooper Vs. Kerr. Stuart & Co.). Thus, the notice issued by Mr. Pati may be ratified by the Board of Directors of Town Handlooms Ltd., to make it valid.	1
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(D) Distribution of Rupees Ninety One Lacs by a company engaged in Pesticides manufacturing is not 'Ultravires' since it was conducive to the continued growth of the company as Pesticides manufacturers (**Evans vs. Brunner, Mood & Co. Ltd.1921**). In order for a contract to be ultra vires, it would be essential to refer to its objects clause. Restrictions of the type mentioned in the question are not an item of the Objectives Clause. Hence, the issue of ultra vires does not arise to such a donation.

Question 2

(A)

Finding is not keeping. The <u>finder must make reasonable efforts to locate the real owner and may also spend reasonable money in taking care of the goods found</u> . However, <u>he earns certain rights also as against the goods found as well as the owner of those goods</u> . His rights are:	1
(1) He has a <u>right of lien over the goods for his expenses</u> . But he has <u>no right to sue the owner for any such compensation (Section 168)</u> .	1
(2) He can <u>sue for any specific reward, which the owner has offered for the return of goods (Section 168)</u> .	1
(3) He can <u>even sell the goods under the following circumstances</u> : (a) If the <u>owner cannot with reasonable diligence be found</u> ; (b) If found , <u>he refuses to pay the lawful charges of the finder</u> ; (c) If the <u>goods are in the danger of perishing or of losing the greater part of their value</u> (d) If the <u>lawful charges of the finder, in respect of the goods found, amount to more than two thirds of their value (Section 169)</u> .	2

(B)

The <u>prescribed particulars of the charge together with the instrument, if any by which the charge is created or evidenced, or a copy thereof shall be filed with the Registrar within 30 days after the date of the creation of charge</u> . [Section 77 (1)]. In this case particulars of charge <u>have not been filed within the prescribed period of 30 days</u> .	2
However, the <u>Registrar is empowered under proviso to section 77 (1) to extend the period of 30 days by another 300 days on payment of such additional fee as may be prescribed</u> . Taking <u>advantage of this provision</u> , Angadia Ltd., should <u>immediately file the particulars of charge with the Registrar and satisfy the Registrar that it had sufficient cause, for not filing the particulars of charge within 30 days of creation of charge</u> .	2
There will be <u>no change in the situation</u> if the charge was created on 12th February,2015.	1

(C)

(1) <u>Meaning of Abridged Prospectus</u> : - According to <u>Section 2(1) of the Companies Act, 2013, an abridged prospectus means a memorandum containing such salient features of a prospectus as may be specified by the SEBI by making regulations in this behalf</u> .	2
(2) <u>Abridged prospectus to be issued along with application form</u> :- <u>Section 33 (1) of the Companies Act, 2013 states that no application form for the purchase of any of the securities of a company can be issued unless such form is accompanied by an abridged prospectus. The abridged prospectus and application form should bear the same printed number. The investor may detach the share application form along the perforated line, after he has had an opportunity to study the contents of this abridged prospectus. The objective of the abridged prospectus is to reduce the cost of issue as the detailed prospectus is a very bulky document whereas the contents of abridged prospectus are limited. However, under sub section (2) a copy of the prospectus shall, on a request by any person before the closing date of the subscription list and the offer, be furnished to him.</u> Penalty for failure to comply with sub section (3) can be a fine of up to Rs.50, 000 for each fault.	2

(3) Circumstances under which the abridged prospectus need not accompany the application forms: In terms of the Proviso to section 33 (1) an abridged prospectus need not accompany the application form if it is shown that the form of application was issued:

(i) In connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to such securities ; or

(ii) Where the securities are not offered to the public.

2

Question 3

(A)

Privileges of a "Holder in Due Course": According to the provisions of the Negotiable Instruments Act, 1881, a holder in due course has the following privileges:

(i) A person signing and delivering to another a stamped but otherwise inchoate instrument is debarred from asserting, as against a holder in due course, that the instrument has not been filled in accordance with the authority given by him, the stamp being sufficient to cover the amount (Section 20).

(ii) In case of bill of exchange is drawn payable to drawer's order in a fictitious name and is endorsed by the same hand as the drawer's signature. It is not permissible for acceptor to allege as against the holder in due course that such name is fictitious (Section 42).

(iii) In case a bill or note is negotiated to a holder in due course, the other parties to the bill or note cannot avoid liability on the ground that the delivery of the instrument was conditional or for a special purpose only (Section 42 and 47).

(iv) The person liable in a negotiable instrument cannot set up against the holder in due course the defences that the instrument had been lost or obtained from the former by means of an offence or fraud or far an unlawful consideration (Section 58).

(v) No maker of a promissory note, and no drawer of a bill or cheque and no acceptor of a bill for the honour of the drawer shall, in a suit thereon by a holder in due course be permitted to deny the validity of the instrument as originally made or drawn (Section 120).

(vi) No maker of a promissory note and no acceptor of a bill payable to order shall, in a suit thereon by a holder in due course, be permitted to deny the payee's capacity, at the rate of the note or bill, to endorse the same (Section 121).

In brief, it is clear that a holder in due course gets a good title in many respects. Answer to problem According to Section 42 of the Negotiable Instruments Act, 1881 an acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not, by reason that such name is fictitious, relieved from liability to any holder in due course claiming under an instrument by the same hand as the drawer's signature, and purporting to be made by the drawer.

The word "fictitious payee" means a person who is not in existence or being in existence, was never intended by the drawer to have the payment. Where drawer intends the payee to have the payment, then he is not a fictitious payee and the forgery of his signature will affect the validity of the cheque.

Applying the above, answers to the questions asked can be as under:

I. In this case Bhargava, the drawer can recover the amount of the cheque from Chaman's bankers because Chaman's title was derived through forged endorsement.

II. Here Chaman is not a fictitious payee because the drawer intended him to receive payment.

III. The result would be different if Chaman is not a real person or is a fictitious person or was not intended to have the payment.

5

3

(B) According to Section 23 of the Companies Act, 2013, a public company can issue securities to the public only by issuing a prospectus. Section 26 (1) lays down the matters required to be disclosed and included in a prospectus and requires the registration of the prospectus with the Registrar before its issue. In the given case, the company has violated with the above provisions of the Act and hence the allotment made is void. The company will have to refund the entire moneys received and will also be punishable under section 26 (9) of the Act.

(C)

<p>A) In accordance with section 68 of the Companies Act, 2013, a company may <u>buy back of its own shares</u> or other specified securities, <u>out of the following sources</u>:</p> <ol style="list-style-type: none"> 1. Company's <u>free reserves</u>; or 2. Company's <u>securities premium account</u>; or 3. Out of the proceeds of any <u>shared or other specified securities</u>. <p>However, <u>no buy-back of any kind of shares or other specified securities shall be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.</u></p>	1
<p>B) <u>Conditions that must be complied with are as laid down in section 68 (2)</u>:</p> <p>(1) Buy-back is <u>authorised</u> by the Company's <u>Articles</u>.</p> <p>(2) A <u>special resolution</u> has been passed in general meeting of the company authorising buy-back.</p> <p>(3) The <u>buy-back is less than 25%</u> of the aggregate of the total <u>paid-up capital and free reserves</u> of the company. Moreover, the <u>buy-back of equity shares, cannot exceed 25%</u> of company's paid up equity share capital <u>in a financial year</u>. However, section 68 (2) has <u>authorised the Board of Directors</u> through a <u>Board Resolution</u>, provided the <u>buy back does not exceed 10%</u> of the <u>total paid up equity share capital and free reserves</u>.</p> <p>However, there <u>cannot be more than one such buy-back in any period of 365 days</u>.</p> <p>(4) The <u>ratio of the aggregate of secured and unsecured debt</u> owed by the company is <u>not more than twice the equity capital and free reserve after such buy back</u>. However, the Central Government may prescribe a higher ratio of the debt for a class or classes of companies.</p> <p>(5) All shares or other specified securities are <u>fully-paid-up</u>,</p> <p>(6) The <u>buy back</u> with respect to <u>listed securities</u> is in <u>accordance with the regulations made by the SEBI</u> in this behalf.</p>	2
<p>C) <u>Time limit for completion of buy-back</u>: Under section 68 (4), every buy-back shall be completed <u>within 12 months</u> from the date of passing the <u>special resolution</u> or a <u>resolution passed by the Board</u> where the <u>buy back is up to 10%</u> of the aggregate of paid up capital and free reserves.</p>	1

Question 4

(A)

<p><u>Meaning of Acceptance</u>: It is only the <u>bill of exchange</u> which <u>requires acceptance</u>. A <u>bill is said to be accepted when the drawee</u> (i.e. the person on whom the bill is drawn), <u>after putting his signature on it</u>, either <u>delivers it or gives notice of such acceptance to the holder of the bill or to some person on his behalf</u>. After the <u>drawee has accepted the bill he is known as the acceptor</u> (<u>Section 7 para 3 of the Negotiable Instruments Act, 1881</u>).</p> <p><u>Acceptance may be either general or qualified</u>. The <u>acceptance is qualified when the drawer does not accept it according to the apparent term of the bill but attaches some condition or qualification</u> which have the effect of either <u>reducing his (acceptor's) liability or acceptance of his liability subject to certain conditions</u>. A <u>general acceptance is the acceptance where the acceptor assents without qualification to the order of the drawer</u>.</p>	3
<p>(i): It is <u>one of the essential elements</u> of a <u>valid acceptance</u> that the <u>acceptance must be written on the bill and signed by the drawee</u>. An <u>oral acceptance is not sufficient in law</u>. Therefore, an <u>oral acceptance of the bill does not stand to be a valid acceptance</u>.</p>	1
<p>(ii): The <u>usual form</u> in which the <u>drawee accepts the Instrument is by writing the word 'accepted'</u>, across the face of the bill and signing his name underneath. The <u>mere signature of the drawee without the addition of the words 'accepted'</u> is a <u>valid acceptance</u>. As the <u>law prescribes no particular form for acceptance</u>, there can be <u>no difficulty in construing acknowledgement as an acceptance</u> but it must satisfy the requirements of Section 7 of the Negotiable Instruments Act, 1881 i.e. it must appear on the bill and must be signed by the drawee. (Manakchand v. Chartered Bank).</p>	2
<p>(B) Pick out the correct answer from the following and give reasons:</p>	
<p>(i) <u>Provisional Contracts</u>: A <u>company having share capital cannot commence business or borrow moneys until it complies with some added formalities as laid down in section 11 (1) of the Companies Act, 2013</u>. Such contracts are <u>subject to an implied condition that the company will comply with the added formalities</u>. Such <u>contracts are therefore valid only if the company legitimately goes on to commence its business</u>.</p>	2

(ii) <u>5.0 percent of the issued price of shares</u> : Reason: As per of the Companies Act, 2013, the <u>amount of commission should not exceed, in the case of shares, 5 percent of the price at which the shares have been issued or the amount or rate authorised by the Articles, whichever is less.</u>	2
(iii) <u>To declare dividends</u> ; Declaration of dividend is <u>one of the ordinary businesses transacted at every Annual General Meeting</u> of the company Members may at an AGM declare dividend by ordinary resolution.	2

(C)

The Company Law Board has laid down in <u>Nandita Jain v. Bennet Coleman & Co. Ltd.</u> that a <u>minor can become a member provided four conditions are fulfilled</u> :	1
(a) Company must be a <u>Co. Ltd. by shares</u> . (b) Shares are <u>fully paid up</u> . (c) <u>Application for transfer</u> is made <u>on behalf of minor</u> by <u>lawful guardian</u> . (d) The transfer is <u>manifestly for the benefit of the minor</u> .	2
Minor can become <u>member by transfer</u> or transmission, but a company may <u>not allow a minor to be a member by allotment</u> .	1

Question 5

(A)

The common sense rule: **(2 Marks)**

- The general rule is that full effect must be given to every word. However, if no sensible meaning can be fixed to a word or phrase, or if it would defeat the real object of the statute, it should be eliminated.
- The words of a statute must be so construed as to give a sensible meaning to them, if at all possible.
- The words in a statute have to be construed such that it is better for a thing to have effect than to be made void. (Maxim; 'utres magis valeat quam pereat')

Conjunctive and disjunctive words – use of 'OR' / 'AND': **(2 Marks)**

- 'OR' is normally considered disjunctive and 'AND' is normally regarded conjunctive.
- However, in certain situation they may have to be read vice-versa to give effect to the manifest intention of the legislature as disclosed from the context. This would be so where the literal reading of the word produces an unintelligible or absurd result.
- In such special situation, 'AND' may be read for 'OR' and 'OR' for 'AND' even though the result of so modifying the words is less favourable to the subject, provided that the intention of the legislature is otherwise quite clear.

Mandatory and Directory Aspects – Use of 'May', 'Must' and 'Shall': **(2 Marks)**

Mandatory	Directory
A 'mandatory' provision must be strictly observed. If a provision gives a power coupled with a duty, it is mandatory.	A 'Directory' provision is such that it would be sufficient that it is substantially complied with.
Non-compliance with a mandatory provision will generally attract penal provision of that statute.	Non-compliance with a directory provision is a procedural deficiency, which may not be regarded as material as non-compliance with a mandatory provision.
Enabling words are construed as compulsory, where the object of the power is to give effect to a legal right.	Non-observance of directory provisions does not involve the consequences of invalidity. Such provisions are primarily discretionary.

Substance over form: whether a provision is "Mandatory" or "Directory" depends on the substance than mere form. An enactment in mandatory form might substantially be directory and conversely, a statute in directory form may in substance be mandatory. Distinction between "mandatory" and "directory" provisions would depend on factors like –

- The nature of the thing empowered to be done.

- b) The object for which it is done, and
- c) The person for whose benefit the power is to be exercised.

(B) According to section 123 of the Companies Act, 2013 dividend shall be paid only to the registered holder of shares or to his order or to his bankers or to the bearer of a share warrant. Where shares have been sold but not yet registered, the dividend shall be paid to the transferee only in case the transferor gives a mandate in writing to that effect. Otherwise, the dividend in respect of such shares shall be transferred to the 'unpaid dividend account'. **(4 marks)**

(C)

Section 118 of the Companies Act, 2013 provides that every company shall prepare, sign and keep minutes of proceedings of every general meeting, including the meeting called by the requisitionists and all proceedings of meeting of any class of share holders or creditors or Board of Directors or committee of the Board and also resolution passed by postal ballot within thirty days of the conclusion of every such meeting concerned. Minutes kept shall be evidence of the proceedings recorded in a meeting.		2.5
By virtue of Rule 25 of the Companies (Management and Administration) Rules 2014 read with section 118 of the Companies Act, 2013 each page of every such book shall be initialed or signed and the last page of the record of proceedings of each meeting or each report in such books shall be dated and signed by, in the case of minutes of proceedings of a general meeting, by the chairman of the same meeting within the aforesaid period of thirty days or in the event of the death or inability of that chairman within that period, by a director duly authorized by the Board for the purpose.		2.5
Therefore, the minutes of the meeting referred to in the case given above can be signed on death of the chairman, by any director who is authorized by the Board.		1

Question 6

(A) define the following terms under general clauses act, 1897: **(2 marks each)**

(i) **chief controlling revenue authority**

It shall mean:

- (a) in a state where there is board of revenue, that board
- (b) in a state where there is a revenue commissioner, that commissioner,
- (c) in Punjab, the financial commissioner and,
- (d) elsewhere, such authority as, in relation to matters enumerated in list 1 in the seventh schedule to the constitution, the central government and in relation to other matters, the state government, may, by notification in the official gazette , appoint.

(ii) **provincial government**

it shall mean , as respects anything done before the commencement of the constitution, the authority or person authorized at the relevant date to administer executive government in the province in the question.

(iii) **Will**

It shall include codicil or every writing making a voluntary posthumous disposition of property.

(iv) **Son**

It is, in case of any one whose personal law permits adoption shall include an adopted son.

(B)

1) a) Modification of charge: The term ' <u>modification</u> ' includes <u>variation of any of the terms of the agreement</u> including variation of rate of interest which <u>may be by mutual agreement</u> or by <u>operation of law</u> . Even if the <u>rights of a charge holder are assigned</u> to a third party, it will be <u>regarded as a modification</u> .		1
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<p>1) b) <u>Section 79</u> of the Companies Act, 2013 provides that “whenever the <u>terms or conditions</u> or the <u>extent or operation of any charge</u> registered under section 77 of the Act are <u>modified</u>, it shall be the <u>duty of the company to send to the Registrar the particulars of such modifications</u> and get such <u>modification registered</u>. The provisions applicable to the registration of a charge under section 77 shall apply to modification of the charge.” Some <u>examples of modification</u> are as under:</p> <ol style="list-style-type: none"> 1. where the <u>charge is modified by varying any terms and conditions</u> of the existing charge by agreement; 2. where the <u>modification is in pursuance of an agreement for enhancing or decreasing the limits</u>; 3. where the modification is by <u>ceding a pari passu charge</u>; 4. change in <u>rate of interest</u> (other than bank rate); 5. change in <u>repayment schedule of loan</u>; (this is not applicable in working loans which are repayable on demand) and 6. partial release of the charge on a <u>particular asset or property</u>. 		2
<p>2) a) Satisfaction of charge: The term <u>satisfaction of charge</u> means that the <u>company has either paid off the debt against which the charge was created</u> or the <u>assets charged have been disposed off</u> and the <u>debt paid off</u>. In either case, the <u>full payment</u> of the debt results in the <u>satisfaction</u> of charge and when <u>this happens</u> the <u>charge must be got vacated</u>.</p>		1
<p>2) b) Under <u>section 82 (1)</u> a <u>company shall give intimation</u> to the <u>Registrar in the prescribed form</u>, of the <u>payment or satisfaction</u> in full of any charge registered under this Chapter <u>within a period of thirty days</u> from the date of such payment or satisfaction.</p>		1
<p>2) c) <u>Section 82 (2)</u> provides that the <u>Registrar shall, on receipt of intimation</u> under sub-section (1), <u>send a notice to the holder of the charge calling upon him to show cause within such time not exceeding fourteen days</u>, as may be specified in such notice, as to <u>why payment or satisfaction in full should not be recorded</u> as intimated to the Registrar. If <u>no cause is shown</u>, by such holder of the charge, the <u>Registrar shall order that a memorandum of satisfaction shall be entered in the register of charges</u> and shall inform the company that he has done so:</p>		1
<p>2) d) <u>Section 83 (1)</u> states that the <u>Registrar may, on evidence being given to his satisfaction</u> with respect to any <u>registered charge</u></p> <ol style="list-style-type: none"> (a) that the <u>debt for which the charge was given</u> has been <u>paid or satisfied in whole or in part</u>; or (b) that the <u>part of the property or undertaking charged</u> has been <u>released from the charge</u> or has ceased to form part of the company’s property or undertaking, <u>enter in the register of charges</u> a memorandum of satisfaction in whole or in part, or of the fact that part of the property or undertaking has been released from the charge or has ceased to form part of the company’s property or undertaking, as the case may be 		1
<p>2) e) <u>Section 82 (2)</u> further requires the <u>Registrar to inform the affected parties</u> within <u>thirty days of making the entry in the register</u> of charges kept under sub-section (1) of section 81. Part payment or satisfaction of charge need not be intimated to the Registrar; only satisfaction in full has to be reported within 30 days from the date of such payment of satisfaction.</p>		1

Question 7

- (A)
- (i) in all central acts or regulations, unless there is anything repugnant in the subject or context-
 1. Words importing the masculine gender shall be taken to include females and
 2. Words in the singular shall include the plural and vice – versa. **(2 marks)**

(ii) where by any enactment now in force or hereafter to be in force, any duty of customs or excise or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on greater or less quantity
(2 marks)

(B)

An annual general meeting <u>cannot be held on a national holiday</u> . Under <u>section 96 (2)</u> of the Companies Act, 2013 every annual general meeting shall be called <u>during business hours</u> , that is, between 9 a.m. and 6 p.m. <u>on any day that is not a National Holiday</u> . A national holiday has been defined in the explanation to section 96 as a <u>day declared as National Holiday by the Central Government</u> .		2.5
A <u>day may be declared to be a national holiday after the notices calling the meeting for the day have already been issued</u> . To <u>avoid the difficulties</u> that may be caused from such a situation, <u>no day declared by the Central Government to be a national holiday shall be deemed to be such a holiday in relation to any meeting, unless the declaration was notified before the issue of the notice convening such meeting</u> .		2.5
Hence, AGM cannot be held on 26th January 2016, it being National Holiday.		1

(C)

The <u>Memorandum</u> of a company <u>includes a clause "Registered Office"</u> which states the state in which the registered office of the company is situated. <u>Section 13 (1)</u> of the Companies Act 2013, <u>allows a company to change any of the clauses</u> of its Memorandum by a <u>special resolution</u> of its members. In some cases the <u>additional approval of the Central Government is necessary</u> . In order to the change its registered office from one State to another the Companies Act, 2013 lays down the following steps and procedure which are supposed to be done by R Ltd.:		1
<u>1. Resolution of the Board of Directors</u> : The first step in changing registered office is that the board of directors must <u>adopt a resolution to that effect and convene a general meeting</u> of members in which the change is approved.		1
<u>2. Special resolution</u> : A <u>special resolution</u> must be passed by the company in the <u>general body meeting of shareholders/members</u> . [Section 13 (1)].		1
<u>3. Approval of the Central Government</u> : Under <u>section 13 (4)</u> the <u>alteration of the Memorandum</u> relating to the change of the registered office from one state to another shall <u>not have any effect, unless it is approved by the Central Government</u> on an application in such form and in such manner as may be prescribed. Hence, the company will have to make the required application after the name is approved by the members by special resolution;		1
<u>4. Disposal of application</u> : Under <u>section 13 (5)</u> the <u>Central Government</u> shall <u>dispose of the application within 60 days and before passing its order</u> , it may <u>satisfy itself that the alteration has the consent of creditors, debenture holders and other persons concerned with the company</u> , or that adequate provisions have been made by the company either for the due discharge of their liabilities or adequate security has been provided for such discharge.		1
<u>5. Registration with Registrar</u> : Under <u>section 13 (7)</u> the company shall file a <u>certified copy of the Central Government order approving the alteration with the Registrar</u> of each of the States within such time and in such manner as may be prescribed, <u>who shall register the same</u> . The <u>Registrar of the State where the registered office is being shifted to</u> , shall <u>issue a fresh certificate of incorporation</u> indicating the alteration.		1
